IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5357 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJ ENTERPRISE "VISHWA" - Petitioner
Versus
TORRENT POWER AEC LTD & 1 - Respondents

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Appearance :

MR JV MEHTA for Petitioner.
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 19/12/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. Though the endorsement on the board indicates that both the respondents are duly served, none of them has appeared either through its Lawyer, nor through its constituted agent nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in this petition upon the respondents. Having regard to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue an appropriate writ or order directing the respondent No.1 i.e. Torrent Power (Ahmedabad Electricity Co.) Ltd. to grant five electric connections to the commercial Units constructed by him. The petitioner has further prayed to direct the respondent No.2 i.e. Ahmedabad

Municipal Corporation to grant Building Use Permission to the commercial Units constructed by him.

3. From the record of the case it is evident that Final Plot No.286/5+6, T.P.Scheme No.3-Ellisbridge, Ahmedabad belonged to Hasmukh Shantilal Mehta, Nitin Shantilal Mehta and others. The owners of the land were desirous of developing the same. Therefore, they, through their Power of Attorney Holders Mr.Nitin Shantilal Mehta and Mr.Deepak Shantilal Mehta, applied to Ahmedabad Municipal Corporation to grant commencement-letter. The Commencement-Letter was granted by the Corporation on November 24, 2005, which is quite evident from the contents of document produced at Annexure-F to the petition. The owners of the land sold the same to Raj Enterprise, a partnership firm, for a sum of Rs.1 Crore & 90 Lakhs, which is quite clear from the contents of Village Form No.6, a copy of which is produced at Annexure-C to the petition. The petitioner i.e. Mr.Mahesh K.Savalia

(Patel) is one of the partners of Raj Enterprise. As per the statement made by Mr.J.V.Mehta, learned Counsel for the petitioner, at the Bar, Mr.Mahesh K.Savalia (Patel) has constructed 49 commercial Units pursuant to the Commencement-Letter granted to the Power of Attorney Holders of original land-owners. After construction of the Units was over, it was the duty of the petitioner to obtain Building Use Permission and thereafter to approach the respondent No.1 for supply of electric connections to the Units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 to grant five electric connections to the Units constructed by him. The said prayer has been turned down by the respondent No.1, which is quite evident from the contents of letter dated March 4, 2006 addressed by the General Manager of the respondent No.1 to the petitioner. A copy of the said letter is produced by the petitioner at Annexure-A to the petition. While refusing to grant five electric

connections as prayed for by the petitioner, the respondent No.1 has informed the petitioner to produce either Building Use Permission or conditional order of the High Court to enable it to supply five electric connections to the Units constructed by the petitioner. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing before Division Bench comprising J.R.Vora & M.D.Shah, JJ., and after hearing the learned counsels for the petitioner, notice for final disposal of the petition was issued. As observed earlier, the record shows that both the respondents are duly served, but, none of them has appeared before the Court to contest the same.

5. This Court has heard Mr.J.V.Mehta, learned Counsel for the petitioner and also considered

the documents forming part of the petition. On the facts and in the circumstances of the case, this Court is of the opinion that interest of justice would be served if following directions are issued:

(1) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to five Commercial Units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to five Commercial Units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to five Commercial Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to five Commercial Units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to

disconnect the electricity supply provided to five Commercial Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to five Commercial Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to five Commercial Units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)